Filed 6/27/19 B.A. v. Superior Court CA4/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

B.A.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E072430

(Super.Ct.No. J279671)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Annemarie G. Pace, Judge. Petition denied.

Law Offices of Valerie M. Ross and Valerie M. Ross for Petitioner.

No appearance for Respondent.

Michelle D. Blakemore, County Counsel, Svetlana Kauper, Deputy County Counsel, for Real Party in Interest.

I

INTRODUCTION

This is a petition for extraordinary writ challenging the findings and orders of the juvenile court in setting a hearing pursuant to Welfare and Institutions Code section 366.26.[1] (§ 366.26, subd. (1); Cal. Rules of Court, rule 8.452.) Petitioner B.A. (Mother) is the mother of four-month-old L.S.[2] Mother has a history with San Bernardino County Children and Family Services (CFS) due to her mental health and ongoing domestic violence issues, resulting in the removal of her children from her care. This is Mother's fourth dependency case. Mother argues that the juvenile court erred in bypassing her reunification services as to L.S. pursuant to section 361.5, subdivision (b)(l0). We find that the record supports the court's findings and orders pursuant to section 361.5, subdivision (b)(10), and deny the petition.[3]

[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

[2] The father of L.S. (T.S.) is not a party to this appeal.

[3] The motion to take judicial notice filed by real party in interest on May 7, 2019, is granted.

II

FACTUAL AND PROCEDURAL BACKGROUND[4]

L.S. has four half siblings: A.A., I.A.-V. (I.) and Is.A.-V. (Is.), and A.S.[5] As indicated above, Mother has a protracted history with CFS for several years prior to the current dependency.

A. *First Prior Dependency*

On March 11, 2015, L.S.'s half siblings, I. and Is., were removed from Mother's care due to the children suffering "severe emotional damage" and maintained with their father D.V. At the time of detention, Mother was incarcerated in jail for child cruelty and assaulting her sister. The children were removed from Mother's care due to her failure to seek medical attention for Is.'s genital warts, her untreated mental health issues, severe neglect, caretaker absence, and a history of domestic violence in her relationship with D.V. Mother reported that she had been "diagnosed with ADHD, ADD, depression, borderline personality disorder, and anxiety." She also stated that she had been in psychiatric treatment since the age of four and had been on psychotropic medications throughout her childhood, but that she had not been on any medications since she was 18 years old. Mother also suffered from a bipolar disorder and schizophrenia. Mother

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[4] The factual and procedural background is taken from this court's unpublished opinion in Mother's prior writ petition, case No. E071753, unless otherwise noted. (*B.A. v. Superior Court* (Feb. 15, 2019, E071753) [nonpub. opn.] (*B.A.*).)

[5] A.S. is T.S.'s child, and A.A., I., and Is. are Mother's children.

claimed that her diagnosis had changed, and at the time of the children's removal, she no longer had a definite diagnosis, and no longer took psychotropic medication.

In regard to domestic violence, Mother detailed a long history of violence in her relationship with D.V. fraught with arguments and physical altercations. Mother recalled fighting with D.V. as early as "the beginning of 2011" when D.V. pushed Mother during a fight causing the then-pregnant Mother to miscarry. In 2013, during an investigation of a referral, the social worker discovered "holes in the walls [in the parents' apartment] and the domestic violence [could] be heard throughout the complex. The fighting occur[ed] at all hours of the day and night."

Mother and D.V. admitted that domestic violence occurred in their relationship. D.V. was arrested in January 2014 for slamming Mother to the ground and choking her. Ultimately, in November 2014, Mother left the relationship because "'it did start to have an effect [on her] kids . . . .'"

Mother had also been a perpetrator of domestic violence and had been arrested for inflicting corporal injury on a spouse in January 2014, battery on a spouse in April 2014, battery on a person in January 2015, and child cruelty in February 2015. The January 2015 arrest occurred at the home of the maternal grandmother when Mother punched her sister in the face causing her sister to sustain a black eye. Mother was ordered to complete a 52-week class in connection with the arrest and conviction. CFS was concerned that "[Mother would] physically fight with other adults in the presence of the children, in which case the children could get physically hurt or become afraid."

On April 16, 2015, the juvenile court found true the amended allegations in L.S.'s half siblings' petitions and declared Is. and I. dependents of the court. The court thereafter formally removed the children from Mother's custody and provided Mother with reunification services. The social worker referred Mother to Unity Home Domestic Violence shelter (Unity Home) upon her release from custody.

At the semiannual six-month review hearing on October 16, 2015, the juvenile court found that Mother had not completed her case plan and terminated Mother's reunification services. The court also found that D.V. had completed his case plan, issued family law orders granting D.V. legal and physical custody of I. and Is., and dismissed the dependency. Mother was provided with supervised visits once a week.

B. *Second Prior Dependency*

Two years later after the first removal, on April 11, 2017, CFS received another immediate response referral concerning the family. D.V. was arrested for driving under the influence with Is. and I. in the backseat of the vehicle. When stopped by law enforcement, D.V "'looked paranoid and kept saying that the cars driving by were the DEA.'" Eventually, D.V. admitted to smoking methamphetamine on April 10, 2017, and drinking four cans of beer on April 11, 2017. D.V. was arrested and transported to jail. The children were taken into protective custody and placed in a foster home.

When asked about their Mother, I. informed the social worker that he had not seen her for a long time. Is. also could not recall when she last saw Mother. D.V. reported

that Mother's whereabouts were unknown, and the social worker was unable to locate Mother.

However, by the jurisdictional/dispositional hearing in May 2017, CFS had located Mother. Mother reported that D.V. had precluded her from visiting the children regularly for a year and a half and that D.V. had threatened her when she complained about the infrequency of the visits. Mother also stated that D.V. had not allowed her any visits since before Christmas 2016. At that time, Mother was diagnosed with post traumatic stress disorder (PTSD) and anxiety disorder. She was not on medication and had not been on medication for about 10 years. Mother reported that she managed her mental illness by taking good care of herself and being involved with therapy at Unity Home. Mother's therapist stated that Mother had made "'tremendous progress,'" explaining that Mother had engaged in therapy and had been honest about her role as a mother and her mental health. In addition, Mother had completed the 52-week class in connection with her domestic violence arrest and conviction. She also had completed a 90-day stay in a domestic violence shelter program and a parenting program. Furthermore, Mother was participating in cognitive behavioral therapy and dialectical behavioral therapy. The social worker opined that Mother had exhibited "the insight into her own behavior, mistakes, vulnerabilities and thirst for additional understanding of how to be a healthy and protective mother."

Although Mother was making progress, the social worker was still concerned about Mother's mental health issues, the allegations of Mother's history of domestic

violence and domestic abuse, and Mother's third pregnancy with A.A. by a man who was controlling. In addition, while Mother was residing in transitional housing, Mother was involved with another man who was very abusive and ultimately went to prison for his acts of violence against Mother. Thereafter, Mother went into the Unity Home program where she had remained getting services and treatment. In assessing the placement with the previously noncustodial parent, the social worker noted that placement with Mother "was ruled out because the mother previously failed to reunite with the children by not completing her case plan while the children were living with [D.V.]" The social worker was also concerned about Mother's protective capacity, noting: "She [Mother] needs to evidence the behavioral changes that indicate she is prepared to care for the children, stay out of relationships where there is domestic violence and continue to care for her mental health needs." Nonetheless, due to Mother's progress, the social worker was in favor of granting reunification services to Mother despite her prior termination of services.

At the jurisdictional hearing on June 28, 2017, the juvenile court found true the allegations in the second dependency petitions pursuant to section 300, subdivisions (b) (failure to protect), and (j) (abuse of sibling), and declared Is. and I. dependents of the court. The matter was thereafter continued for the dispositional hearing.

At the dispositional hearing on July 27, 2017, both children were removed from D.V.'s custody, and placed with Mother, the previously noncustodial parent, under family maintenance services. D.V. was provided with reunification services and supervised visits.

A semiannual six-month review hearing was held on February 16, 2018 concerning I. and Is. At that time, minors' counsel objected to dismissing the case, and requested that the matter be set for cause due to Mother's failure to complete anger management classes and family counseling, and the children's disclosure of abuse by Mother. Counsel for CFS requested a continuance for Mother's boyfriend to provide his information for a criminal background check. The court granted the request to continue the matter.

On April 2, 2018, the court terminated D.V.'s reunification services, and issued family law orders with legal and physical custody to Mother. The court thereafter terminated jurisdiction and dismissed the matter.

C. *Third Dependency*

Four months later, on August 13, 2018, CFS received a child abuse referral alleging physical abuse and general neglect to Is., I., and A.A. The referral disclosed that Mother's boyfriend, T.S., physically abused his own daughter, A.S. According to A.S.'s mother, the child was returned to her custody after a visit with T.S. with "bruises and scratches on her body." More specifically, A.S. had bruises to her forehead, eye, cheek, right hip, and buttock. She also had scratches to her back, upper left body, thigh, calf, inside left leg, and stomach. A.S.'s injuries occurred at T.S.'s residence which he shared with Mother and her three children, I., Is., and A.A.

Mother and T.S. claimed that five-year-old I. had inflicted the bruises and scratches on A.S. in the course of two to three days during the week A.S. was visiting

T.S. Both Mother and T.S. also stated that they were present or nearby when the incidents occurred. Mother's and T.S.'s claims were later refuted by contradictory statements made by Mother and T.S., a medical examination of A.S., and forensic interviews of I. and Is. T.S. stated that it was Mother who was in charge of disciplining the children.

I. reported that on more than one occasion Mother physically abused him, A.A., Is., and A.S. Specifically, he explained that Mother punched them with her knuckles "'everywhere,'" including the face, forehead, stomach, knees, and lower body, and that Mother hit them and threw "'things'" at A.S. I. also noted that Mother "hit [A.S] with everything she can, so she was tired of hitting [A.S.]." He further stated that Mother "'busted [him]'" and threw him out of a window. In addition, I. reported observing Mother "punching out windows," as well as witnessing domestic violence between Mother and T.S. with Mother and T.S. punching each other, "'fighting every single day'" and saying "'very bad words'" to each other. I. also stated that T.S. "'did the bad things to me,'" and hit him when he was bad.

Is. confirmed I.'s statements and reported that Mother and T.S. hit the children when they were bad. Specifically, Is. witnessed Mother hit her brother "'hard'" with her "'hand or something'" (later identified as a book) on I.'s hand and arm. Is. recalled an incident when I. was sent to the garage after a beating because Mother did not want to hear I. screaming. Is. and A.A. were subjects of the beatings as well. Mother hit both girls on their hands which made Is. feel "sad." Is. also disclosed an incident when

Mother hit A.S. "'a lot of times'" on her arms, hands, and legs. Is. expressed sadness when watching A.S. being hit because she was scared that the beating would happen to her. Is. also recalled A.S. being put in the corner "'all day'" until A.S. became "'super, super hungry.'"

Because of the severity and the extent of A.S.'s injuries as well as the disclosures of physical abuse in the home, CFS was concerned that A.A. was placed at a similar risk of abuse. A.A. and her half siblings were taken into protective custody and placed with the maternal grandparents.

On September 11, 2018, a first amended petition was filed on behalf of A.A. pursuant to section 300, subdivisions (b) (failure to protect), (g) (no provision for support), and (j) (abuse of sibling).

At the detention hearing on September 12, 2018, A.A. was formally detained from parental custody. The court found T.S. was not the biological father of A.A. and declared him a nonparty.

On September 19, 2018, Mother enrolled in a parenting course, an anger management program, and group and individual therapy at Pacific Clinics Family Resource Center (Pacific Clinics). A letter dated October 17, 2018, from Pacific Clinics, indicated that Mother began attending her parenting classes and group therapy services at Pacific Clinics.

Because Mother continued to live an unstable lifestyle that included domestic violence issues and Mother's minimization of the seriousness of A.S.'s injuries

demonstrating Mother's inability to protect A.A., CFS recommended to bypass reunification services to Mother pursuant to section 361.5, subdivision (b)(10), based on her prior failure to reunify with A.A.'s half siblings.

The contested jurisdictional/dispositional hearing was held on November 5, 2018. At that time, Mother testified as follows: Mother denied that she engaged in domestic violence with T.S., including punching and fighting with T.S. "every single day." She also denied punching out windows. However, she acknowledged prior domestic violence with D.V. for which she had completed a domestic violence class. Upon its completion, Mother entered an emergency shelter and a transitional program. Nonetheless, when Mother left the transitional program she moved in with T.S. In September 2018, Mother enrolled in another domestic violence class to "refresh[] [her] memory and also trying to obtain and use as much information as [she] can to better [herself] as a person, as well as a parent." Mother also acknowledged having mental health issues with a current diagnosis of PTSD, which she believed was well managed through weekly therapy and did not interfere with her parenting abilities. She also claimed that the past diagnosis of her mental illness was "speculation."

Regarding disposition, Mother's counsel argued that Mother had made reasonable efforts to treat the reasons for A.A.'s removal, in particular in regard to domestic violence, and therefore, the bypass provision under section 361.5, subdivision (b)(10), did not apply. Minor's counsel and counsel for CFS argued the bypass provision applied because Mother did not address and continued to deny the issue of domestic violence,

Mother continued to engage in domestic violence with her new partner T.S., and instead of acknowledging the issue, she blamed her five-year-old son.

Following arguments, the juvenile court found true the allegations in A.A.'s petition. The court also concluded that Mother did not make reasonable efforts to remedy the issues between the first time when the children were removed in 2015 and the re-removal in 2018. The court explained: "And while I understand success is not the keystone for [section 361.5, subdivision (b)(10)], [Mother] engaged in a new relationship. It's the same issues present, domestic violence, as well as other issues, but the same domestic violence. She's still in a relationship with that person; still calling him her fiancé. At some point there has to be some recognition that these people she is choosing to have relationships with are not appropriate, and she's putting that ahead of the safety of her children. [¶] She [Mother] is nowhere near remediating that problem [domestic violence] which has existed since 2015. [¶] So I do find that the [section 361.5, subdivision (b)(10)] bypass does exist. . . . [¶] I'm specifically making a finding that it is not in the best interest of the children [to offer services]; they need stability." Thereafter, the court denied services to Mother as to all three children. The matter was continued to December 3, 2018, for a further contested jurisdictional/dispositional hearing for D.V., who was then in custody, and would be transported by that date.

On November 14, 2018, the juvenile court issued a "Tentative Findings & Orders re: Reunification Services." In its tentative opinion, the court affirmed the applicability

of the bypass provision in A.A.'s case and reversed its order regarding I. and Is. based on case law indicating the bypass provision does not apply to the same child.

At the further contested jurisdictional/dispositional hearing on December 3, 2018, Mother's counsel argued that Mother should get services for all three children. CFS's counsel argued that the children should be treated individually and that the bypass provision should apply in A.A.'s case. Following argument, the court, acknowledging the ambiguities in section 361.5, subdivision (b)(10), and inviting counsel to appeal the issue, affirmed the denial of services to Mother in A.A.'s case pursuant to section 361.5, subdivision (b)(10), while granting services to Mother in A.A.'s half siblings' cases. The court noted that it would not grant Mother services in I. and Is.'s case "were it not for the language of [section 361.5, subdivision (b)(10)]."[6] Thereafter, the court declared A.A. a dependent of the court, set a section 366.26 hearing in A.A.'s case and advised Mother of her appellate writ rights.

On December 5, 2018, Mother filed a timely notice of intent to file a writ petition.

On February 15, 2019, this court denied Mother's writ petition in A.A.'s case. We concluded the juvenile court did not err in bypassing Mother's reunification services as to A.A. pursuant to section 361.5, subdivision (b)(10).

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[6] We note that minors' counsel for I. and Is. filed an appeal challenging the court's order providing services to Mother in I. and Is.'s case. That appeal is currently pending before this court in case No. E071757.

D. *Current Dependency*

L.S. came to the attention of CFS on February 1, 2019, when a referral was received alleging general neglect by Mother. The reporting party stated that Mother had open dependency cases involving L.S.'s half siblings. I. and Is. were in family reunification, and A.A. was in a "permanent placement case with a pre-adoptive component." The reporting party also asserted that L.S. was at risk due to Mother failing to benefit from and complete her services. L.S.'s father and Mother's live-in boyfriend, T.S., did not have an open dependency case and had been participating in services voluntarily.

Social workers met with Mother and T.S. at their place of residence and reviewed Mother's CFS history with her. The social workers explained to Mother and T.S. that due to their CFS history, current open dependency cases, and recent termination of family reunification services, CFS had concerns for L.S.'s safety and stability in their care. In addition, T.S.'s child, A.S., had been declared a dependent of the court and allegations of physical abuse and neglect were found true on November 17, 2018.[7]

L.S. was taken into protective custody, and on February 5, 2019, a petition was filed on behalf of L.S. pursuant to section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling).

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[7] A.S.'s case was eventually dismissed, as the court found her mother to be a noncustodial parent, and family law orders were issued with joint legal custody to her mother and T.S., and physical custody and primary residence with her mother.

The detention hearing was held on February 6, 2019. At that time, Mother objected to detention of the child, contested the matter, and testified as follows. Mother stated that L.S. was removed five days after his birth and that he resided with her and T.S. in a two-bedroom home where there were appropriate food and supplies. She received disability income to support herself and L.S. She acknowledged that she had "been involved with the Department for quite some time." Mother claimed that she had completed two parenting classes and an assertive communication class and that she continued to participate in individual therapy once a week. In addition, she participated in a domestic violence class and a codependency class for women with a history of domestic violence. Mother believed she had addressed "some of the issues" that were present in her cases prior to L.S.'s birth. Specifically, she admitted to past domestic violence in her prior relationships. However, she denied domestic violence with T.S. Mother also believed she did not present "a threat towards this child." She, nonetheless, admitted that a child had been injured in her home. The injuries included scratches on the child's leg and thigh, and a couple of bruises on her cheek and forehead. She also confirmed that she was aware of her son's prior disclosures that Mother never got along with T.S. and fought every single day, but continued to deny domestic violence in her current relationship with T.S. Mother asked the court not to detain L.S. and to place him back with her.

Following argument, the juvenile court explained: "This Court is well aware of the history and it's not one case, it's cases. [¶] [Mother's] older children were removed

three times; the last two times from her care. [¶] . . . [¶] [Mother's] three children were removed from the care of [Mother] while she was living with [T.S.] due to the injuries to [A.S.] and the disclosure of domestic violence by the older children in that home. [¶] Mother has undergone not only services multiple times, but intensive domestic violence services and I believe a year in a domestic violence sheltered program and then started a new domestic-violence relationship with [T.S.] [¶] So, there is more than ample reason to detain this child from these parents." Accordingly, L.S. was formally detained from parental custody and placed with the maternal grandmother. The parents were advised that no reunification services may apply pursuant to section 361.5. Nonetheless, the parents were offered services pending the jurisdictional/dispositional hearing and visitation twice a week for two hours.

CFS recommended that the allegations in the petition be found true, services be denied to the parents pursuant to section 361.5, and that a section 366.26 hearing be set. CFS assessed Mother's prognosis for reunification with L.S. as "poor." CFS was concerned that Mother would continue to live an unstable and unsafe lifestyle and that Mother had failed to demonstrate the ability to care and protect her children while continuing to minimize and deny how her lifestyle affected the children's lives. I. and Is. had been detained three times from Mother, yet Mother continued to blame others and failed to address the issues that brought the children to the attention of CFS. Mother's attitude was that she had "done nothing wrong, which [did] not allow her the ability to show remorse or insight into why CFS [was] involved once again." In addition, on

February 13, 2019, Mother was arrested for child cruelty (Pen. Code, § 273A, subd. (a)), and she was detained on a $100,000 bail bond.

At the initial jurisdictional/dispositional hearing held on February 28, 2019, Mother was not present as she was in custody. Mother's counsel set the matter contested on the recommendation of no reunification services. The court set the contested hearing for April 3, 2019, and ordered Mother to be transported if she were still in custody.

At the contested April 3, 2019 jurisdictional/dispositional hearing, the court took judicial notice of the prior findings and orders made in L.S.'s half siblings' cases, as well as CFS's reports. Mother's counsel argued that there was no evidence of ongoing domestic violence in Mother's relationship, as evidenced by the lack of "arrests or police intervention in the household." Mother's counsel also noted that Mother was participating in services and, therefore, believed L.S. would be safe in Mother's custody. Mother's counsel requested the court offer Mother reunification services and not set the 366.26 hearing.

Minor's counsel and counsel for CFS requested that the court sustain the petition and deny Mother reunification services pursuant to section 361.5, subdivision (b)(10). Minor's counsel pointed out that Mother was "very good at engaging in services and even at times completing services, but she has failed to show that she is capable of benefitting from services." Minor's counsel also noted, "Over the course of her time here in dependency court she has repeatedly left one domestic-violence situation for yet another domestic-violence situation." CFS's counsel stated that

Mother remained in a relationship with T.S., who had not participated in any services to address the abuse to his own child, A.S., or any services to address the domestic violence relationship. CFS's counsel also asserted that Mother "left her transitional domestic-violence shelter to move in with [T.S.] And she is still—notwithstanding all the services that she's in—co-dependency counseling, individual counseling—she is still in a co-dependent relationship in a domestic-violence relationship."

Following argument, the court found true the allegations in the petition. Regarding disposition, the court stated "the Court made an extensive record in [A.A's] case as to why [the court] did not order services for the mother in that case. Those considerations still apply and that decision was upheld by the Court of Appeal. The remittitur will become final on April 19th." The court reiterated the reasons for the prior removals and Mother's failure to make reasonable efforts to remedy the problems: "The repeated domestic-violence relationships, the extensive services that the mother has engaged in, including . . . almost a year in a shelter and then immediately starting a relationship with [T.S.] which then subjected the children to more violence. [¶] I find that the minors' statements regarding that violence to be credible. They corroborate one another and they're more detailed than simple allegations. So the [section 361.5, subdivision] (b)10 bypass does apply to the mother." As such, the court declared L.S. a dependent of the court, denied Mother reunification services pursuant to section 361.5, subdivision (b)(10), and set a section 366.26 hearing.

On April 5, 2019, Mother filed a timely notice of intent to file a writ petition.

III

DISCUSSION

Mother argues that the juvenile court erred in denying her services in L.S.'s case because clear and convincing evidence does not support there was a failure to reunify with L.S.'s half siblings within the meaning of section 361.5, subdivision (b)(10). She also contends that this court made a "factual error" in A.A.'s case when we determined she failed to reunify with the half siblings. She believes that she "*did* reunify with A.A.'s half siblings in the second case" and presents the same arguments presented in A.A.'s case.

CFS asserts that Mother's arguments are barred by collateral estoppel, as the same question of law and fact has been resolved by this court in Mother's prior writ petition in case No. E071753. (*B.A.*, *supra*, E071753.) In the alternative, CFS argues Mother failed to reunify with L.S.'s half siblings in 2015 and, therefore, the bypass provision of section 361.5, subdivision (b)(10), applies to L.S.'s case. We agree.

"Collateral estoppel, or issue preclusion, 'prohibits the relitigation of issues argued and decided in a previous case, even if the second suit raises different causes of action. [Citation.] Under issue preclusion, the prior judgment conclusively resolves an issue actually litigated and determined in the first action.' [Citation]. '[I]ssue preclusion applies (1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party.'" (*In re Donovan L.* (2016) 244 Cal.App.4th

1075, 1084) "Collateral estoppel is 'grounded on the premise that "once an issue has been resolved in a prior proceeding, there is no further factfinding function to be performed."' [Citations.]" (*Ibid*.) The public policies underlying collateral estoppel include preservation of the integrity of the judicial system, promotion of judicial economy, and protection of litigants from harassment by vexatious litigation. (*Ibid*.; see *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 343.) Collateral estoppel applies in the juvenile dependency context. (*Donovan L.*, at p. 1084; *In re Joshua J.* (1995) 39 Cal.App.4th 984, 993-994 [collateral estoppel barred relitigation of an issue decided in an earlier dependency proceeding].)

Here, as Mother acknowledges, in A.A.'s case, Mother litigated the exact same issue also adjudicated in L.S.'s case, and we decided that issue in an opinion which is now final. Although a different child is involved, public policies underlying collateral estoppel apply here, including preservation of the integrity of the judicial system, the importance of consistent results, and promotion of judicial economy. As CFS notes, the issue of whether the bypass provision under section 361.5, subdivision (b)(10), applied to Mother, was litigated in A.A.'s case in the court below and later upheld by this court. Mother made no attempt in the juvenile court to distinguish the applicability of section 361.5, subdivision (b)(10), in L.S.'s case. Instead, on appeal, under the guise of a "factual error," Mother makes an impermissible collateral attack on our legal conclusion decided in A.A.'s case. In A.A.'s case, we concluded the juvenile court properly bypassed Mother's reunification services pursuant to section 361.5, subdivision (b)(10).

We reject Mother's assertion that this court made "a factual error on a material issue" in A.A.'s case. No reason exists to provide Mother with a second bite of the apple. Accordingly, Mother is precluded from relitigating and arguing the same issue previously determined by this court.

Even assuming our prior opinion does not bar consideration in this appeal of the issue resolved in A.A.'s case, Mother's claims as to L.S. fail on the merits for the same reasons they failed as to A.A. The same rationale applies in L.S.'s case as in A.A.'s case. Specifically, Mother's termination of services in the first dependency in 2015 constituted a failure to reunify with L.S.'s half siblings, I. and Is., within the meaning of section 361.5, subdivision (b)(10). I. and Is.'s subsequent placement with Mother under section 361.2 did not remedy her failure to reunify with I. and Is. in 2015. The procedural mechanism, which compelled the court to assess Mother for placement in the second dependency, differed from the reunification mechanism triggered by Mother's reasonable effort to treat the problems that led to the initial removal. I. and Is. were *placed* with Mother in 2017 as a previously noncustodial parent pursuant to section 361.2, rather than being reunified with her within the meaning of section 361.5, subdivision (b)(10). As a result, I. and Is.'s placement with Mother in 2017 did not constitute "reunification" within the meaning of section 361.5, subdivision (b)(10), as Mother continues to claim. Accordingly, because L.S. was removed for the same reason as his half siblings, and Mother did not make reasonable efforts to treat the problems that

led to their removal, the juvenile court properly bypassed reunification services in L.S.'s case.

IV

DISPOSITION

The writ petition is denied.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

MILLER
Acting P. J.

FIELDS
J.